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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/821,501 | 03/29/2001 | Takao Yoshimine | 450100-03089 | 2784 |
| 20999 | 7590 | 10/19/2004 | EXAMINER | |
| FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151 | | | HARRELL, ROBERT B | |
| ART UNIT | | PAPER NUMBER | | |
| | | | | 2142 |

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

07/11

| | | |
|------------------------------|-------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/821,501 | YOSHIMINE ET AL. |
| | Examiner | Art Unit |
| | Robert B. Harrell | 2142 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 September 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 4-9 and 13-48 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3 and 10-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 3/29/2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/30/04 & 6/2/03.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: see attached Office Action.

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1. Claims 1-48 are presented for examination.

2. Claims 1-48 were subject to restriction (mailed August 13, 2004) of which claims 1-3 and 10-12 (Group I) were elected "*without traverse*". Thus, the August 13, 2004, restriction continues which is hereby incorporated into this action by reference and made FINAL. Also, the applicant must adjust the Oath and/or Declaration to reflect only those inventors who contributed to the elected invention (i.e., a new Oath and/or Declaration *if* inventorship is different for the elected invention (Group I)).

3. Thus the status of the claims are as follows:

- a) claims 4-9 and 13-48 are withdrawn from further consideration as drawn to non-elected inventions; and,
- b) **claims 1,2,3,10,11, and 12** continue for further examination as herein follows.

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

5. The Specification and drawings (specifically figure 1) are objected to since figure 1 appears on its face "Prior Art", as suggested by the Specification on pages 7 (lines 6-7 "the principle") and pages 11-14, but absent such labeling. Thus, the objection arises due the inconstancy between the specification and the drawings. These objections continue since when an error in one arises, the question of more such confusion arises. Clarification is required, in response to this Office Action, in the form of explanations or amendment(s) as required.

6. Inserts such as "*****" (page 52) should be replaced with variable names dynamic in nature during run time (i.e., ISP_Name, password, exc...); and use of graphical symbols should be avoided as on page 70 (line 23 as an example and on page 71 (line 1) as another example) since they will not be printed in an issued Patent. No objection or rejections rise from this point; rather, clarity would be enhanced using such as provided in this paragraph.

7. The textual portion of the specification is replete with grammatical and idiomatic errors too numerous to mention specifically. The specification should be revised carefully.

8. For all of the above, the applicant should use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors (e.g., see page 71 (line 13 "o9" or "09")), accuracy, assurance of proper use for Trademarks TM where required, and clarity of meaning in the Specification, Drawings, and specifically the claims. Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.

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9. The following is a quotation of the second paragraph of 35 U.S.C 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1,2,3,10,11, and 12 are rejected under 35 U.S.C 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The scope of meaning of the following claim language is not clear:

- a) "the exclusive storage area"--claim 1 (lines 2-3), claim 10 (lines 7-8);
- b) "said plurality of contents in each given time schedule frame"--claim 1 (lines 7-8) and claim 10 (lines 12-13);
- c) "the time"--claim 1 (line 10) and claim 10 (line 15);
- d) "the providing"--claim 10 (line 2);
- e) "the last"--claims 3 and 12 (line 3).

11. As to 10 (a-e) above, these are but a few examples of numerous cases where clear antecedent bases are lacking and not an exhausting recital. Any other term(s) or phrase(s) over looked by examiner and not listed above which start with either "the" or "said" and do not have a single proper antecedent bases also is indefinite for the reasons outlined in this paragraph. Also, these are but a few examples where term(s) or phrase(s) are introduced more than once without adequate use of either "the" or "said" for the subsequent use of the term(s) or phrase(s). Moreover, multiple introduction of a term, or changes in tense, results in a lack of clear antecedent bases for term(s) or phrase(s) which relied upon the introduced term. Failure to correct all existing cases where clear antecedent bases are lacking can be viewed as non-responsive.

12. "from" (claim 1 (line 11) and claim 10 (line 16)) in not consistent with line 5 (claim 1) and line 10 (claim 10) "to". Thus data flow cannot be clearly ascertained from the claim(s).

13. Claim 10 is a fractured claim because of the second use of "comprising" in line 6, which should read as "further comprises" (comma omitted in the line).

14. Claims 1,2,3,10,11, and 12 are allowable over the art of record since the art of record fails to teach or remotely suggest the corresponding structure, and acts, or their equivalent, of a content providing device or content providing system as currently claimed having exclusive storage areas, for each individual, which stores contents to be distributed over a network based on a time when a client makes a demand for the content within a given time schedule frame as currently claimed.

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15. To place this application in condition for allowance, the applicant must heed notice, with required correction, to all of the above and cancel non-elected claims.

16. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (703) 305-9692. The examiner can normally be reached Monday thru Friday from 5:30 am to 2:00 pm and on weekends from 6:00 am to 12 noon Eastern Standard Time.

18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack B. Harvey, can be reached on (703) 308-9705. The fax phone number for all papers is (703) 872-9306.

19. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.



ROBERT B. HARRELL
PRIMARY EXAMINER
GROUP 2142